IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.99 OF 2006

Bhagwan Yashwant Ingale ...Appellant

Vs.

Bhagwat Sadashiv Bhore & Ors. ...Respondents

Mr.Surel S. Shah for the Appellant
Mr.A.A.Joshi for the Respondent Nos. 1,2-A to 2-E.

CORAM: A.S.OKA, J.
DATED: APRIL 5,2006.

P.C.:

1. Heard Shri Shah for the Appellant. The Appellant is the original Plaintiff No.1. The suit filed by the Plaintiffs was for specific performance of the oral agreement allegedly executed in favour of the Plaintiffs in the year 1975. The suit is filed in the year 1983.

2. Shri Shah for the Appellant invited my attention to the findings recorded by the trial court. He pointed out that the Trial court on consideration of oral evidence came to the conclusion that existence of oral agreement has been duly proved. He submitted that the finding of the Appellate court on this aspect is perverse. He pointed out that the witness to the oral transaction has also been examined.

3. I have considered the submissions. The case of the

Plaintiffs is that on 29th September 1975 when the sale deed was executed in favour of the father of the deceased Respondent No.2, there was an oral agreement to reconvey the land within a period of eight years.

4. The Appellate court has held that if the transaction of the sale effected by the sale deed at Exh.42 and the oral agreement were the part of the same transaction, the Plaintiffs ought to have examined the witnesses to the sale deed at Exh.42. The Appellate Court after consideration of the oral evidence came to the conclusion that the oral agreement is not proved. The finding of the Appellate court is based purely on appreciation of oral evidence on record.

5. There is no substantial question of law. Second Appeal is dismissed with no order as to costs.

Judge.